

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA



TANNER R HEDRICK

3590118

(Enter above the full name of the plaintiff
or plaintiffs in this action).

(Inmate Reg. # of each Plaintiff)

VERSUS

CIVIL ACTION NO. 2:21-cv-00083

(Number to be assigned by Court)

JULY TRIAL DEMANDED

CHARLES MOLES

(Enter above the full name of the defendant
or defendants in this action)

COMPLAINT

I. Previous Lawsuits

A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment?

Yes _____ No X

B. If your answer to A is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit:

Plaintiffs: _____

Defendants: _____

2. Court (if federal court, name the district; if state court, name the county);

3. Docket Number: _____

4. Name of judge to whom case was assigned:

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

6. Approximate date of filing lawsuit: _____

7. Approximate date of disposition: _____

II. Place of Present Confinement: Mount Olive Correctional Complex

A. Is there a prisoner grievance procedure in this institution?

Yes X No _____

B. Did you present the facts relating to your complaint in the state prisoner grievance procedure?

Yes X No _____

C. If you answer is YES:

1. What steps did you take? Filed A Grievance and Sent It to All 3 levels of Administration untl Manager/ Warden/ Commissioner

2. What was the result? Accepted / Denied

D. If your answer is NO, explain why not: _____

III. Parties

(In item A below, place your name and inmate registration number in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of Plaintiff: TANNER R. HEDRICK 3590118

Address: One Mountainside Way Mount Olive, West Virginia 25185

B. Additional Plaintiff(s) and Address(es): _____

(In item C below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item D for the names, positions, and places of employment of any additional defendants.)

C. Defendant: CHARLES MOLES

is employed as: Correctional officer

at Mount Olive Correctional Complex

D. Additional defendants: _____

IV. Statement of Claim

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

SEE ATTACHED DOCUMENTS

IV. Statement of Claim (continued):

V. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

SEE ATTACHED DOCUMENTS

V. Relief (continued)):

VII. Counsel

A. If someone other than a lawyer is assisting you in preparing this case, state the person's name:

BENJAMIN MARCUS 3559338

B. Have you made any effort to contact a private lawyer to determine if he or she would represent you in this civil action?

Yes X No _____

If so, state the name(s) and address(es) of each lawyer contacted:

SEE ATTACHED SHEET I CONTACTED 7 TOTAL NO ONE SENT A LETTER BACK

If not, state your reasons: _____

C. Have you previously had a lawyer representing you in a civil action in this court?

Yes _____ No X

If so, state the lawyer's name and address:

Signed this 2nd day of January, 2021.

Tanner R. Hedrick 3590118

Signature of Plaintiff or Plaintiffs

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 21st 2021.
(Date)

Tanner R. Hedrick 3590118
Signature of Movant/Plaintiff

Signature of Attorney
(if any)

~~WV COUNSEL~~

Joseph D. Garcia, Esq.

MANCHIN INJURY LAW GROUP, PLLC

1543 Fairmont Avenue, Suite 203

Fairmont, WV 26554-2175

ANSWER TO (B)

BENJAMIN D. ADAMS

500 Randolph Street

Charleston, WV 25302

Katz, Kantor, Stonestreet, Buckner PLLC

207 S. Walker Street

Princeton, WV 24740

HARMAN LAW FIRM LLC

3575 Piedmont Street

Building 15 Suite 1040

Atlanta, GA 30305

James Humphreys

112 Capital Street 2nd Floor

Charleston, WV 25301

Woelfel & Woelfel

801 8th Street

Huntington, WV 25701

Nessel Law Firm

519 8th Street

Huntington, WV 25701

Mr. Humphreys,

I'm writing you in regards to taking a use of force claim. I have enclosed my grievance and ^{All} ~~A~~ affidavits please read over these documents and if you're interested contact me back and send a contract for me to sign and when I mail the contract back I will enclose all original documents I have.

Respectfully,

Tanner Ray Hendrick 3590118

1 Mountainside Way

Mt. Olive, WV 25185

Ann Heink 3590118
Mountainside Way
Olive, WV 25186

Correspondence
Inmate at CHARLESTON WV 259
Correctional Facility
5 JAN 2021 PM 1 L
5 JAN 2021 PM 12 L



Return
to sender

DJ

302

ATTEMPTED NOT KNOWN

Attorney: James F. Humphrey
112 Capitol Street 204 G-1
Charleston, WV 25301

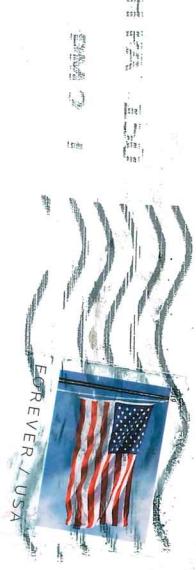
LEGAL MATL



Manchin Professional Building
1543 Fairmont Avenue, Suite 203
Fairmont, WV 26554-2175

Tanner Ray Hedrick #3590118
1 Mountainside Way
Mt. Olive, WV 25185

Q2 302



251 EB



Manchin Professional Building
1543 Fairmont Avenue, Suite 203
Fairmont, WV 26554-2175

**TIMOTHY J. MANCHIN +
TAYLOR B. DOWNS
CLARISSA M. BANKS
JOSEPH D. GARCIA**

+ Past President WV Association For Justice

January 18, 2021

Via First Class Mail

Tanner Ray Hedrick #3590118
1 Mountainside Way,
Mt. Olive, WV 25185

RE: Tanner Hedrick

Dear Mr. Hedrick:

I am in receipt of your letter, which was received by my office on January 15, 2021. After reviewing your letter and explanation contained therein, your case does not meet the criteria for our firm to accept your case. Therefore, we will not represent you in this matter.

We wish to remind you that there is an applicable statute of limitations in this case. This means that if you have not settled your case or filed a lawsuit by that date, you will be barred from pursuing any recovery. There are times and circumstances under which you can extend the statute of limitations; however, it is always safest to proceed before the earliest possible date has expired.

You owe us nothing for the time and expense we have incurred in reviewing this matter.

We regret that our decision could not be more favorable; however, we can only use our best judgment in deciding whether to pursue individual cases. We sincerely appreciate you bringing this matter to us for review and that you would consider us for representation in this matter. Please feel free to contact us if you have any other need for legal services.

Very Truly Yours,

A handwritten signature in blue ink, appearing to read 'Joseph D. Garcia'. It is a cursive signature with a large, stylized 'J' at the beginning.

Joseph D. Garcia

JDG/mkc

Calwell Luce di Irapano PLLC
Law and Arts Center West,
500 Randolph Street
Charleston, WV 25302

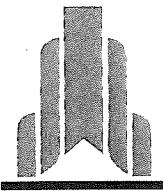
CHARLESTON
WV 253
20 JAN 21
PM 4 L



LEGAL MAIL:
TO BE OPENED IN THE PRESENCE OF THE
INMATE
Dante di Irapano
Attorney for Inmate

Tanner Hedrick
OID# 2590118
Mt. Olive Correctional
1 Mountainside Way
Mt. Olive, WV 25185

25185-



Via First Class and Certified Mail, Return Receipt Requested
7019 2280 0000 1711 3972

CALWELL
■ **LUCE** ■
DITRAPANO

January 20, 2021

Tanner Hedrick
OID: 3590118
Mount Olive Correctional Complex
1 Mountaintop Way
Mt. Olive, WV 25185

Re: Potential New Case Inquiry

Dear Mr. Hedrick:

Thank you for contacting Calwell Luce diTrapano regarding your legal matter. I appreciate the confidence you have expressed in our firm. However, for various reasons, this office will not be able to represent you. This decision should not be interpreted as an adverse opinion about the merits of your case. You should consult another attorney without delay if you choose to pursue it.

Please note that the law limits the time within which individuals may file lawsuits. Allowing too much time to pass may forever bar you from asserting your claim. While I am not providing an opinion as to the date by which you must file a lawsuit against any potential defendant, I strongly caution you to take *immediate action* to protect your legal rights.

If you need assistance with other legal matters in the future, please call for a free consultation.

Very truly yours,

CALWELL LUCE DITRAPANO, PLLC.
A Professional Limited Liability Company

By: _____

John H. Skaggs, Esquire
jskaggs@cldlaw.com

JHS/lo

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

TANNER R. HEDRICK

Plaintiff

v

CASE NO:

CHARLES MOLES Defendant
Sued in His Individual Capacity

JURY TRIAL DEMANDED

PLAINTIFF'S Verified COMPLAINT

COMES NOW PLAINTIFF Tanner R. Hedrick pro se, and STATES His complaint AS follows:

PARTIES

- 1) Plaintiff Tanner R. Hedrick (Mr. Hedrick as Plaintiff) is an inmate at Mount Olive Correctional Complex (M.O.C.C.) Mount Olive West Virginia
- 2) Defendant Corporal Charles Moles (herein after Defendant), was at all times relevant Correctional Officer Employed at M.O.C.C. and Acting under color of STATE LAW.

JURISDICTION

- 3) This Action is Brought Pursuant To 42 U.S.C. 1983, 1988j and The Eighth Amendment To the United States Constitution, Jurisdiction is Based upon 28 U.S.C. 1331, 1333 (1-4) and 2202

FACTS:

4) ON OCT. 20 2020 At Aproximately 6:00AM During Breakfast CO Richmond Shook ~~The~~ Styrofoam Tray of MR. Hedrick and stuck it in His Food Slot At That Time The Plaintiff Tossed it BACK OUT The food slot on The floor Like All other Inmates Due for Trash Pick up By The Pod 3 Jawitor.

5) Once MR. Hedrick Tossed The Tray OUT The Defendant Corporal Charles Moles Began Spraying Plaintiff Several Times Through The food slot with Pepper Spray, This was All Done for no Apparent REASoN.

6) After The Defendant Stopped Spraying Mr. Hedrick's The Plaintiff WAS ASKING To Be Removed from The Cell Because Mr. Hedrick Could not Breathe or See what was Happening And The Defendant STATED "I can't get you out until They Bring The camera" which Took Aproximately 10 Minutes. NOTE: Corporal Charles Moles did not HAVE The video Camera with Him when He sprayed The Plaintiff AS Policy Requires

7) WHEN The other officers came in with The video Camera They Told MR. Hedrick To strip out and cuff up So They Could Remove Plaintiff from The cell. MR. Hedrick Then STATED "I want A gold Badge so I don't get Beat up Again" And The Defendant Threatened To Deploy Pepper Spray Again on MR. Hedrick So The Plaintiff Stripped out And cuffed up And WAS TAKEN for Treatment. All of This WAS Recorded By The Hand Held video Camera as well AS The STATIONARY Camera in Pod 3 on Williams 2 Unit.

8) The other Inmates on The unit WAS Telling The Defendant Not To Hurt MR. Hedrick as The Plaintiff WAS TAKEN OFF The unit To the multi Purpose room for Treatment

9) ONCE The Plaintiff WAS Removed from The multi Purpose Room DAY Shift officers were Working The Williams 2 unit And Sgt. Wilson Had MR. Hedrick Placed in the Shower in Pod 3 on Top Tier in Williams 2 unit.

10) Mr. Hedrick was given no soap, washcloth or anything else to remove the pepper spray from the Plaintiff's body. Mr. Hedrick was only told to rinse off and put on the clean pants he was given. Then the Plaintiff was placed back into cell #2 on pod 3 in Quilliams 2 unit.

11) Once Mr. Hedrick was back into his cell the Plaintiff was given instructions by staff officer's that "if he knew what was good for him he would keep his mouth shut."

12) On Oct. 20 2020 Mr. Hedrick filed a grievance to preserve the footage from the video cameras and that it be formally reviewed by supervisors.

13) As stated the actual use of force was not recorded because the defendant failed to "follow numerous policies including the one that states the defendant has to have a video camera present before using calculated force on the Plaintiff, who is locked securely behind a (2) two inch thick steel door posing no threat to the defendant.

14) As a direct result of the defendant's actions and the use of powerful chemical agents Mr. Hedrick suffered blurriness of vision for several days and a skin irritation that lasted 5 days.

15) As a direct result of defendant's actions Mr. Hedrick suffered and still suffers severe mental and emotional stress to the point Mr. Hedrick won't leave the cell because Plaintiff is scared of correctional staff.

16) The Plaintiff has exhausted all administrative remedies.

COUNT I

17) Defendant corporal Charles Moles violated Mr. Hedrick's Eighth Amendment right not to have cruel and unusual punishment used against him, when the defendant maliciously, sadistically, and unnecessarily used excessive force on Mr. Hedrick without any efforts to temper, while Plaintiff was secured in a locked cell posing no threat to Mr. Moles and all done without a video camera present.

COUNT II

18) Defendant Corporal Charles Moles violated Mr. Hedricks Eighth Amendment Right Not To Have cruel and unusual Punishment used Against Him when The Defendant Deployed Excessive Amounts of Powerful Chemical Agents in much greater quantities Than needed or necessary when the defendant Sprayed several Blast lasting ~~three~~ ^{Three} Seconds or longer into plaintiffs cell while Mr. Hedrick posed No Threat To The Defendant.

RELIEF

Wherefore The plaintiff Request The court To Award Damages Jointly and Severly as follows:

- A) Compensatory Damages in the Amount of 25,000 dollars
- B) Injunctive Relief That ALL STAFF entering or working at Williams unit wear body cameras To Prevent ASSAULTS and EXCESSIVE FORCE claims.
- C) Punitive Damages in the Amount of 25,000 dollars
- D) Attorneys fees and cost; and
- E) Any other relief The court Deems To Be Just And Appropriate.

Respectfully Submitted,

Tanner R. Hedrick Plaintiff

Tanner R. Hedrick 3590118

TANNER R. HEDRICK 3590118
1 Mountainside WAY
Mount olive, West Virginia 25185

VERIFICATION

Plaintiff verifies And Swears under Penalty of Perjury That All Statements are
True And correct.

I Tanner R. HEDRICK Do swear That My complaint is True and accurate
To The Best of My Knowledge.

Tanner R. Hedrick

TANNER R. HEDRICK

SWORN AFFIDAVIT OF TANNER HEDRICK

I, Tanner R. Hedrick #3590118, swear under Penalty of Perjury That The following Statement is True and correct.

ON OCT. 20 At Approximately 10:30 AM During Breakfast Co. Richman Shook my Tray Up And gave it to me, I Then Tossed it BACK out of my food slot into The Floor Like everyone else on the unit does with Trash And Styrofoam Trays from The previous meal for Trash Pickup By The Pod Janitor, Once I tossed my Tray out Corporal mates Began to Spray me Several Times Through my Food Slot with Pepper Spray for No Reason, I WAS Beggin' Him To get me out of the cell Because I couldn't Breathe or See what was going on and He said "I ~~can~~ can't get you out until they Bring The camera" which Took About 10 minutes, Then when they come in with The Camera They told me to Strip and Then Cutup So They Could Remove me from my cell, I told them I wanted A gold BADGE so They Didn't Beat me up Again and They Threatend To spray me Again, so I cutup and WAS TAKEN for Treatment, The other inmates was Telliing them not to Hurt me as we was leaving I WAS Then TAKEN to the multi purpose Room and once we left there DAY Shift was working and Sgt. Wilson Had me placed in the Shower on the Top Tier in Pod 3 in Williams 2 unit, I WAS given no Soap, or Washcloth only A clean Pair of PANTS To Put on Then I WAS put back into my cell with Instructions By the Co's That "If I know what's good for me I'll Keep my mouth Shut" on Oct. 20 2020 I filed A grievance over The Incident And Asked All Video footage Be reviewed and Preserved and reviewed By Supervisors.

I, Tanner R. Hedrick, do swear That The Above Statement is True and correct To The Best of my Knowledge.

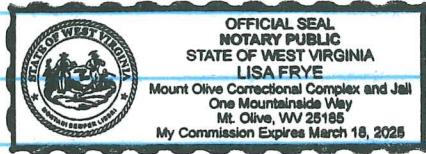
Tanner R. Hedrick 3590118

Tanner R. Hedrick 3590118

Date: Dec. 20, 2020

state of wv
County of Fayette

Sworn and Subscribed
before me this 20
December, 2020. my
Commission expires 18 March 2025.



Chadzy, Notary
EXHIBIT A

ONE STAPLE ONLY

RECEIVED

WVDCR Policy Directive 335.00

15 February 2020

Attachment #2

GENERAL DISTRIBUTION

WVDCR Inmate Grievance Form

OCT 22 2020

Grievance No.

20 MOC Q2 1106

Tanner Ray Heddick

QUILLIAN

3590118

Inmate Name

OID #

Oct. 20, 2020

Date of Grievance

1407 1325

State Nature of Grievance / Issue to be addressed (Note: 1 issue per grievance be concise file with Director of Inmate Services.

NO WRITING ON BACK):

ON Oct 20, 2020 at around 6:15 hrs during breakfast delivery CO. Richmond Shook my tray up and attempted to throw my breakfast tray down tray on the floor of my cell. Because I suspect that the CO Richmond had contaminated my meal and shook it up to hide the fact that he'd spit in my meal. W, JCH → see attachment sheet

Relief Sought (state what you want):

See attach sheet

Tanner Ray Heddick Oct 20, 2020 (The inmate may attach one 8.5 x 11 sheet if necessary, at this level only)

Inmate's Signature

Director of Inmate Services Response (attach additional sheet if needed)

Accepted Rejected Reason for rejection: _____ Date: 23 Oct 2020

Response on Merits if accepted:

Camera footage will be reviewed by the magistrate. I cannot dismiss the charges. That will be up to the magistrate.

Signature

Resolved: _____ (if so initial and give copy to Director of Inmate Services)Appealed to Superintendent (initial) Date: 23 Oct 2020

If no response at initial level is included the inmate certifies that he/she has tendered this grievance as indicated above and no response has been issued at that level within the time frames set forth in Policy Directive 335.00.

Tanner Ray Heddick

Oct 23, 2020

Inmate's Signature

Date

Action by Superintendent:

Accepted Rejected Reason for rejection: _____ Date: _____Response on Merits if accepted: Remand to Unit for further action Affirm unit and/or deny grievance Grant the Grievance as specified
Comments Write stands you may appeal if you disagree.

Superintendent's Signature

Date

OCT 28 2020 (Attach additional sheet if necessary)

Resolved: _____ (if so initial and give copy to Director of Inmate Services)Appealed to Commissioner (initial)

If no response at Superintendent's level is included, the inmate certifies that he/she has tendered this grievance as indicated above and no response has been issued at that level within the time frames set forth in Policy Directive 335.00.

Received

NOV 06 2020

Inmate's Signature

Date

Action by Commissioner:

Accepted Rejected Reason for rejection: _____Response on Merits if accepted: Affirm Superintendent

Rejected:

Excessive Pages

Use 335.0/325.0

Not fully completed
More complete

WARDEN'S OFFICE
MOC

OCT 28 2020

SCANNED

EXHIBIT B-1

RECEIVED

Page 2 of Grievance Oct 20-2020 Tam

I threw my tray out on to the Pod Day Room floor which I was styrofoam tray. Which on day we have Styrofoam tray we through them out to be pick up and throw away. After I threw my tray out on to the floor of the Pod the corporal (I do not know his name) that was on duty hours before this) came to my door and made threats and ask me what my problem was? and ~~why~~ the fuck did you throw your tray out on the floor I explain it was a misunderstanding that I wanted it throw away because I felt it was spit in and without warning he sprayed me with his mace into my bean hole three times. After this I was forced to strip out and cuff up. And he removed from my cell. ~~but he can't do this~~ I am the one will be written up and be placed on 72 hour lockdown and punishment. As a result the QOL Program over again more importantly I was told on Oct 1, 2020 by OCLWV Parole Board that I was to remain write up free for a year. I been extremely work hard to do just that but I am constantly targeted due to my previous actions

Relief Sought

I ask that all camera footage be reviewed and preserved, that any write up I receive on ~~this~~ these event be immediately and completely dismissed and I ask that I be remain on my current level on the QOL Program so I can completed the program peacefully and safely, I also like to ask that there be no retaliation taken against me for writing this Grievance.

Tanner Laerch 11, M. 359118 ² Grievance Number Admit Oct 20, 2020

Fonseca, John 3534757

Q II 301

Mount Olive Correctional Complex

I, John Fonseca, did witness the following to occur. I do swear and attest that my statement is factual and true.

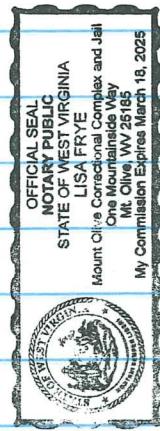
On the morning of Oct 20, 2020 at breakfast delivery CO I Ryan Richmond passed me my styrofoam tray through the foot slot then continued to the next cell which is 302 and said something I could not make out that sounded angry. Within a few seconds I heard Tanner Hedrick hollering "Why did you throw my tray on the floor? He shook my tray up!" as soon as I heard him yelling this Cpl Moles left my door in the direction of cell 2 while removing his mace from his belt and immediately, with no command or warning ~~sprayed~~ sprayed inmate Hedrick for what seemed like five to ten seconds.

Next the CO's came back with several more CO's and a video camera telling inmate Hedrick to strip out so they could remove him from his cell and decontaminate him. Inmate Hedrick initially responded that he wanted a Gold Badge so they would not "beat him up again". He eventually complied and was removed to decontamination after several inmates told the CO's not to hurt him.

Every word of this statement is FACTUAL and true.

John Fonseca 3534757
John E. Frye, Jr.

EXHIBIT C



On October 20 2020 at Breakfast
Feeding On Q-2 pod 3 at Mt Olive
Correctional Complex I Charles Murphy
did witness COI Ryan Richmond
Shake up Tanner Hedricks Tray
and give it to him. Tanner Hedricks
Then threw the styrofoam tray back
on the Floor in the pod the
Way all inmates do as its the
Only Way to get rid of trash,
Cpl. Charles Moles then Came
to Tanner Hedricks door and
Sprayed him With O.C pepper
Spray for No reason or Warning
What so ever.

Charles Murphy

State of WV
County of Fayette

Sworn & Subscribed before
me this 24th day of
November 2020. My
commission expires
18 March 2025.



Lisa Frye, Notary

EXHIBIT D

Name : Jeffrey Taylor #3469908
Date : 11/17/20
Subject : Macr usd

On October, 20th, 2020 at breakfast I witnessed Corporal Motes spray inmate Tanner Hedrick after he tossed his styrofoam tray out his bean hole.

First the C.O's shook his tray & threw it into cell #302 where Tanner is housed. Inmate Tanner then took the tray & threw it in the pod. All inmates do this in the Q's as it's the only way to throw the styrofoam trays in the trash.

Corporal Motes then sprayed Tanner for no reason & for a long couple seconds.

Jeff Taylor #3469908

State of WV
County of Fayette

Sworn & Subscribed
before me this 24th
day of November 2020.
My commission expires
18 March 2025.



Lisa Frye, Notary

EXHIBIT E

writing is by Zack Spradling

On Oct 20 2020 at am chow ~~at~~ I watched the following happen. Co O Ryan Richmond shook up inmates Tanner Hedricks's tray up and threw it in his food slot at him. The Co O then went to the next cell to feed. When Hedricks asked to C.O. Moles something the C.O. pulled out his O.C spray and spray him for a ~~at~~ long time. I counted atleast 10 seconds. Then they pulled him out to Doc him

Zackeory Spradling
359122AS

State of WV
County of Fayette

Sworn and subscribed
before me this 24th
day of November 2020.
My commission expires
18 March 2025.



O'Daig, Notary

EXHIBIT F

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

TANNER R. HEDRICK

Your full name

v.

Civil Action No.: _____

CHARLES MOLES

Enter above the full name of defendant(s) in this action

Certificate of Service

I, Tanner R. Hedrick (your name here), appearing *pro se*, hereby certify that I have served the foregoing 42 U.S.C. 1983 Complaint and Summons (title of document being sent) upon the defendant(s) by depositing true copies of the same in the United States mail, postage prepaid, upon the following counsel of record for the defendant(s) on

January 20 2021 (insert date here):

(List name and address of counsel for defendant(s))

Tanner R. Hedrick
(sign your name)